DOCUMENT RESUME

ED 075 161 RC 006 948

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TITLE	Education and Politics: A Shotgun Wedding. Position Paper.
PUB DATE	73
NOTE	39p.; Paper presented at the Native American Teacher Corps Conference, Denver, Colorado, April 26-29, 1973
EDRS PRICE	MF-$0.65 HC-$3.29
DESCRIPTORS	*American Indians; Consolidated Schools; *Court Litigation; Educational Quality; Elementary Schools; *Experimental Schools; Individual Power; Political Attitudes; *Politics; Reservations (Indian); *School Community Relationship; School Improvement; Student Needs
IDENTIFIERS	*Minnesota

ABSTRACT

The document discussed the political realities facing American Indian communities as these communities move toward Indian control of quality education. The experiences with the Pine Point school suggested the 2 major functions of an experimental community school were: (1) to show methods for improving education; and (2) to demonstrate how to put together the resources to establish and nourish a program. The first function demanded educational resourcefulness and the second demanded political resourcefulness. The political dimension is usually unrecognized and underestimated, causing Indian communities to be badly served by schools almost all the time and making them politically dispossessed and relatively powerless. The document covered: (1) the history of the Pine Point Experimental Community School and problems encountered; (2) the legal argument for tribal recognition as political entity; and (3) re-emphasis on the political dimensions involved in alternative programs for Indian students with considerations for organizers of such demonstration programs. (FF)

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EDUCATION and POLITICS:

A SHOTGUN WEDDING

I. Introduction

II. History of Pine Point Community School

III. Tribe as Political Entity

IV. Recognizing Politics in Alternative Schools

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Position Paper
Native American Teacher Corps Conference
Denver, Colorado
April 26-29, 1973

EC 006948

I N T R O D U C T I O N

In a day when man is supposedly more educated than he has ever been before, he seems to be finding it more difficult to live in harmony with his fellow man. Maybe this paradoxical situation suggests that there are segments of his education which have been neglected. Man's inability to perceive his fellow man as a person who has similar feelings, inclinations, hopes, and responsibilities, has created a society that is faced with segmentation and confrontation.

As education has functioned in the past, much time has been devoted to the school's role in assisting the child to reach his own individual potential, specifically in the cognitive areas. There exists substantial literature that speaks about individualization. At the same time there are assumptions about the school's role in the socialization of the child. Yet, there is considerable evidence to suggest that education, including the school and the teachers, has been responsible for a dysfunctional socialization. During the latter 1960's, this statement was made relevant to Indian country. Basically, Indian communities said, the non-Indian education system was at fault for the failure of Indian students to make it through that system.

In many Indian communities, Indian people were

demanding "Indian community control" or "Indian control of Indian education". There was substantial ground for this exigency. In 1969, the Special Senate Subcommittee on Indian Education recommended that the United States set as a national goal the achievement of:

> Maximum Indian participation in the development of exemplary education programs for (a) Federal Indian schools; (b) public schools with Indian populations; and (c) model schools to meet both social and educational goals....[1]

The following year, President Nixon declared:

> "We believe every Indian community wishing to do so should be able to control its Indian schools."[2]

The movement for Indian control in education has taken many different forms. Some communities have entered into contracts with the Bureau of Indian Affairs by which the community operates a school or school programs. Other communities have worked through the state school system to gain control of their schools or school programs. And still other communities are weighing the advantages and disadvantages of alternative courses of action.

The purpose of this article is to discuss the political realities which face Indian communities as they begin to move toward transforming the rhetoric of "Indian control"

[1] Indian Education: A National Tragedy--A National Challenge; Document number 91-501, 91st Congress, First Session, p. 106.

[2] Message of the President of the United States, July 8, 1970, House Document No. 91-363, 91st Congress, Second Session, p. 6.

into the reality of quality education.

I know it's popular to say that the education of children should be above politics. I also know that other papers at this symposium are directly devoted to legal and political issues at the national level.

Despite knowing this, I feel confident about the direction of this paper. The education of Indian children has never been above politics. Schools have been and usually still are one of the chief instruments of domination used by the society-at-large. More and more I have come to believe that schools are not removed from politics for any child in this country. But so far as Indian children are concerned, there is just no question remaining about this point.

More and more I have come to believe that people who argue that schools are not political institutions do not follow school board elections, attend meetings, and probably have never tried to bring substantial changes to a school.

And the politization is a local as well as a national matter. Concern for the national issues is important and necessary. The national issues, however, affect local communities and the individual human beings in them. We cannot forget this fact--for either education or politics.

If you believed literally in what most educational theorists say and write, you might end up thinking that

the problem in running a demonstration program for Indian students is a matter of getting together a coherent set of ideas about schooling and operating on the basis of those ideas. If you believe in the current ways in which most schools seem to be administered, you might end up thinking that it makes no difference whatever which set of ideas about schooling apply so long as the bills are paid and no one influential is offended by the demonstration program.

Both of these perspectives are limited and limited to the extent that they do not serve the development of a demonstration program. The experiences with the Pine Point School suggest to me that a demonstration program has at least two major functions: first, to demonstrate ideas in operation for improving schooling, and second, demonstrating how to put together the resources to establish and nourish a school program. The first function demands educational resourcefulness; the second demands political resourcefulness.

My argument in this paper is that both kinds of resourcefulness are necessary, <u>but that the political dimension is the one which is usually unrecognized and underestimated</u>. As one reads the discussion of this demonstration project, note the number of times reference is made to some aspect of the political dimension. I will draw from the Pine Point School for my examples, but

will try to extend those examples into other settings, too.

Basic to this argument are two other points: first, that Indian communities are badly served by schools almost all the time. Secondly, Indian communities are politically dispossesed and therefore relatively powerless. I assume that no special pleading of these points are required here.

The present program at Pine Point started in July of 1970. The initiative for a new program came when a state-wide plan for the consolidation of school districts affected the community. Provisions of this law included closing so-called common school districts--those not operating a high school--and consolidating them with an existing district which did operate a high school.

To my knowledge the issues of the special political status of reservations and the special needs of Indian students were never raised during the development of this legislation and the enforcement policies for the bill. That may have been a critical political failure in itself, but that is another large story.

Pine Point had operated as a common school district for many years before the consolidation issue surfaced. Thus, the claim that reservation communities have no experience with running their own school affairs is simply wrong--certainly so far as Pine Point is concerned.

Accordingly, the organization of the following discussion is:

First, a history and developmental chronicle of the Pine Point Experimental Community School and the variety of problems encountered;

Second, the legal argument for a tribe to be recognized as an entity; and,

Third, re-emphasis on the political dimensions in attempting to carry on an alternative program for Indian students with generalized reactions on what organizers for demonstration programs need to consider.

HISTORY AND CHRONICLE

The Pine Point Elementary School is located in the village of Ponsford, Minnesota, in the southeast corner of the White Earth Indian Reservation. Trade centers for the area are Park Rapids, 20 miles southeast, and Detroit Lakes, 30 miles southwest.

This area of the state is well known for its natural beauty. The magnificent Itasca State Park is located immediately to the east of the reservation. Both Park Rapids and Detroit Lakes are renowned as tourism centers. In fact, a large part of the economic base of the area is tourist-oriented.

In the midst of the natural beauty many residents suffer greatly. Of all persons who suffer from economic deprivation, the Indian people suffer most deeply since their plight is compounded by racial attitudes and a history of social and educational programs that have failed to meet the needs to which they were presumably addressed.

Becker County, within which the Pine Point sector of the reservation is located, usually ranks at or near the bottom of Minnesota counties listed by per capita income. Conversely it ranks near the top in percentage of residents dependent upon forms of public welfare. An estimated 70% of persons living in the Pine Point area

have annual family incomes below $3,600; 90% of heads of households have incomes below $3,000. Pine Point has an average yearly income of $614 per person.

Unemployment and underemployment are chronic among heads of households; opportunities for employment of youth are non-existent.

Pine Point exists in geographical, economic, and social isolation. The community is dominated by problems of poverty; the problems of poverty are inextricably linked to and compounded by problems of race. An inference may be drawn, which is, these problems may well produce a culture in which healthy "identity" is almost impossible to attain. Further, the results produce a scene in which too many human beings at best waste themselves, and, at worst, destroy themselves.

The objectives drawn for this project were designed to fit the needs of the community, the initial phase of the project being the school, for the community of Pine Point is in existence because of one thing...the school.

The community of Pine Point decided that changes in the school program were in order, beginning in the year of 1968. One of the earliest steps taken was to hire a Chippewa from Pine Point as the principal of the school. Throughout the school year of 1968-69 several meetings were held to generate community involvement in the school and participation in similar activities. Many of the

activities which were carried out were, perhaps, simple in comparison to other school districts. These activities included staff meetings with parents, discussions, and movies about the culture of the Indian people of the United States. More than any other thing, what was occurring was that the Indian parents of the community were becoming actively involved in the various facets of the school program, a rare thing among Indian communities. The response from the residents was encouraging to the school administration and even more encouraging to the parents themselves. This was a new experience for them and they continued their attendance at meetings and programs.

In October of 1969 meetings were initiated with the neighboring school district, Park Rapids. At that time Districts 25 (Pine Point) and 309 (Park Rapids) were independent of each other with District 25 purchasing high school services for its children from District 309. Present were staff members of the Park Rapids school and parents of the Pine Point community. The intent of the meetings was to establish a dialogue between the community and the Park Rapids staff, and suggest guidelines for the issues of school attendance, school performance, and dropouts in particular, since the dropout rate was 78% over a ten-year period. A representative number of Park Rapids teachers was in attendance and it was an excellent oppor-

tunity for developing further group meetings. It was suggested that the staff of Park Rapids take the initiative in organizing future meetings; however, nothing ever materialized.

At this same point in time, the Minnesota Indian Education Committee was in the process of discussing possible alternative solutions for problems facing Indian students in the state; i.e., dropouts, low achievement, absenteeism. At an earlier date, the Minnesota Indian Education Committee had met at Pine Point and had gone over some of the same issues with the parents of the community. The Committee had cautioned the community residents against making any radical moves concerning the educational systems serving the Pine Point students. The chairman of the committee stated, "Asking the children to stay in a reservation or Indian populated school (Pine Point) might place an additional burden on the children by lengthening the period of time that it takes to learn to function in modern society." Additionally, the Director of Indian Education in Minnesota was concerned that any alternatives Pine Point might consider be thoroughly examined.

The alternative the community was considering was to establish a school program similar in nature to the Rough Rock Demonstration School. The Board of Education of Pine Point was convinced this was the direction to take and instructed the school principal to conduct a

study of the concepts of experimental educational programs.

In retrospect, in May of 1969, Reuben Rock, an elder in the community and a member of the Pine Point School Board, stated that Pine Point was moving towards community status with the development of the new housing project and was concerned that the Pine Point School was to be abandoned just when improvements were developing in the local community.

On November 5, 1969, an article appeared in the "Detroit Lakes Tribune" entitled, "Giant Mill Levy Seen for Pine Point; Consolidation Probable." (The 1967 State Legislature passed a law that common school districts, e.g., Pine Point, must consolidate with graded secondary school districts by 1971.) It was the opinion of many that the state was encouraging the consolidation of the Pine Point School district, which, in effect, would shut down the school at a date earlier than the actual legal deadline. The Pine Point officials were urged to begin discussions with District 309, Park Rapids, regarding consolidation. It is of importance to note that the Department of Education felt that this common school district of Pine Point was not providing quality education. It appeared that the answer to the educational ills of this Indian community was to shut down existing educational facilities and move the children to other loca-

tions--white public schools--in order that they receive "quality education." The instrument the state used was the increased tax levy, and this in a school district already noted for the lack of taxable resources. All parties concerned realized the district of Pine Point could not meet the mill levy being proposed.

Later that month new impetus was added. At the First National Indian Education Conference held November 20-22, 1969 in Minneapolis, Senator Walter F. Mondale, in the keynote address, stated that:

> "There is little to be proud of about a system in which 25 per cent of the teachers of Indian students admit they prefer not to teach Indians.
>
> "There is little to be proud of about a system which ignores the Indian half the time and demeans him the rest."

At this same conference the call was made for Indians to become involved in their own destiny. The conclusions drawn were unanimous; Indian education is as bad as it can be, and even at its best, white dominated education insults and frustrates Indians; Indian control has never been tried in recent times; therefore, Indians should be given meaningful involvement and/or control over the education of their children.

The proposed closing of the District 25 school involved a basic contradiction. On the one hand, considerable rhetorical energy had been devoted to the need for

involving Indian parents in the education of their children; on the other hand, the Indian-controlled Pine Point School was being forced into consolidation with a non-Indian school system. The theory of Indian responsibility was contradicted by the realities of school policies.

Since it appeared that little if anything was going to be done by the state officials about the possible shutdown of the Pine Point School, the community had to step up its proposed alternatives. On December 5, 1969, a project overview, entitled, "An Experimental Community School", was submitted to the Minnesota Indian Affairs Commission for their review and support. The presentation was made by the Indian principal at a meeting held in the village of Pine Point. It was the first documented article to appear regarding the possible alternatives discussed by the Pine Point community members. The Minnesota Indian Affairs Commission supported the proposal.

On the final day of Congress, Senator Walter Mondale renewed his call for a prompt change in Indian educational systems to recognize the special needs of Indian students. He told of recent events at the Pine Point School in Ponsford:

> "Two teenage suicides and seven attempted suicides in the last ten months; 18 local Indian youths incarcerated in state correctional institutions; another 27 on probation; a high school dropout

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> rate of 78 per cent and an average daily attendance rate of only 51 per cent.
>
> "These statistics can be interpreted a number of ways, but of one thing I am convinced: The educational system must bear a major responsibility for these tragic situations. These statistics will not change until the educational system changes to recognize the special needs of Indian students."

A news release covering this Congressional matter (December, 1969) went on to say that:

> "He called attention to the recent Senate Indian Education Subcommittee report which pointed out ways in which the educational system should change. The report called for, among other things, increased participation by Indians in the operation of schools attended by Indians and development of implementation of curriculum materials which recognized language and cultural differences."

With the support of Senator Mondale and the Indian Affairs Commission, the next move was to meet with the Department of Education officials to discuss in detail the legality of a possible demonstration project and ramifications of the legislative mandate (that of 1967 regarding consolidation). It appeared to be a touchy matter because of the suggestions by Indian organizations and tribes that Indians be given the opportunity to run their own affairs. Again, the contradiction between a law and the desire of a group was readily apparent. The Director of the Indian Education Section of the State Department of Education decided it would be worth a try to explore the possibilities and draw up detailed plans and proposals.

The Minnesota Indian Education Committee named an ad-hoc subcommittee to assist in the drawing up of a proposal. While yet in rough draft, the proposal received support from Indian organizations throughout the state (Minnesota Chippewa Tribe, Minneapolis Urban Indian Federation, American Indian Movement) and advanced rapidly. The plans for establishing a demonstration project in Indian education for the state of Minnesota were set in order and a deadline for completion of the proposal was June 1, 1970. The action date for Minnesota Department of Education was July 1, 1970, and the proposed implementation date was September, 1970.

There remained to be answered the questions of the law, research, funding, and detailed facets of the project. At this point, the major area to be put in order was detailing the project methods, features, and objectives, so that a justifiable argument could be made for the project.

In late February, 1970, a thesis entitled "Behaviorally Engineered Elementary Schools" was presented. In the thesis, there were three fundamentals outlined:

1) The premise of defined instructional objectives.
2) Application of defensible laws of human behavior.
3) Accountability of all involved persons for the contribution of their behavior to the learning of children.

In addition, it was strongly suggested that the teachers must make a commitment to learn and apply the principles of immediate reinforcement of behavior.

In mid-April of 1970 a draft of the proposal, "An Experimental Community School: A Child Centered Program", was finished and considered the end product of several months research and developments. The basics of the proposal were:

> A proposal to establish, in an elementary school serving Indian children in a rural area of Minnesota, a program of instruction that will:
>
> 1) Produce upgraded achievement in mathematics, reading, and other standard curricular subjects;
> 2) Incorporate into the content of the curriculum the history, music, art, and traditions of Chippewa Indian people;
> 3) Employ the defensible laws of human behavior to guide children to behaviorally stated instructional objectives.

Throughout the month of May negotiations were held between the school boards of Pine Point and Park Rapids, and the Director of Indian Education to discuss the possible merger of the two schools. In order to comply with the state mandate of consolidation, the tentative solution offered by the Indian community was to become a part of the Park Rapids district but maintain Pine Point as an attendance unit of the district. There were many questions from both sides, mainly concerning funding and control. The Park Rapids board hesitated due to concern that they might have to spend some of their own money to operate the Pine Point School. On the other hand, the Pine Point board was concerned that the local people would have little to say about the school operations in the school they felt was theirs. The Director of Indian Education assured the

Park Rapids board that additional funds would be made available so that there would be no cost to the local taxpayer, contingent on the establishment of an advisory board from the local community from Pine Point.

In early June, 1970, the two school boards met at Pine Point to make a final decision. The Park Rapids school board resolved to maintain the Pine Point School as an attendance unit of District 309 and to maintain it as an Experimental Educational Unit, for a period of one year, at which time the program would be subject to review.

On June 8, 1970, the combined school boards of Pine Point and Park Rapids met with the State Board of Education and Commissioner of Education, Howard Casmey. The State Board went on record as endorsing the experimental project and resolved that it be carried on for a period of three years.

On June 30, 1970, District 25 ceased to exist as a corporate body. The Pine Point School became the responsibility of the Park Rapids district on July 1, 1970, being known as "The Pine Point Experimental Community School."

In the beginning of the program, it was hoped that the administration of the Pine Point School would be shared by the local Indian school board and the Park Rapids board. However, the Pine Point board was dissolved

and replaced with an Indian Advisory Board. The administration lay totally with the Park Rapids School Board, with the Indian Advisory Board having input in an advisory capacity only. The fact that the Pine Point community lost a considerable amount of local autonomy is a clear example of a large school system dominating a local community. It should be noted that the Park Rapids School Board was never in favor of merging with the Pine Point School, for reasons unclear.

The merger of the administrations was an unhappy one for most of the people involved. The eventual consequence will indicate this clearly.

After the program began there were indications that the district officials were going to operate from a position of indifference while posing as grantors of independence. One example of this indifference was an outgrowth of allegations made in a local newspaper that Pine Point was a center for developing racial hatred. The article appeared November 12, 1970, in the "Becker County Record", entitled, "County Residents Request Stronger Law Enforcement." Reference was made to the Pine Point School, stating that the theme of the school was to teach hate and racism. The staff of Pine Point drafted a letter requesting the Park Rapids Board of Education to meet and prepare a rebuttal to the allegations. The request was made November 17, 1970. The Board of Education read the request

January 19, 1971. The matter was brought up to the Pine Point staff and community in March, 1971. Support--immediate support--could have reinforced the staff and community. But the school board did not respond until it was too late and it did not matter any longer.

The same attitudes were reflected in the reactions to proposals from Pine Point to provide some service to a group of over twenty-five high school dropouts who started spending their time at the Pine Point School. Eventually this group was told that we could not provide resources to assist them, after having made several requests to the Superintendent and District 309 board. As a coup de grace, one of the district board members stated to the Pine Point principal, "You certainly do have a problem here." This, from a board member whose schools were those these students had forsaken--some as long ago as five years. Yet, he had the audacity to say that the problem was that of the Pine Point principal, when reality testifies that this man and the staff of District 309 were dismal failures.

These incidents reflect the attitude of the school board of District 309. It is assumed that they are primarily concerned about funds and fiscal responsibility, a difficult enough task. However, the Pine Point project is their responsibility as well and they should provide strong leadership for the program. For the first year they did not exercise their strengths.

The second year saw a change in leadership of the position of Pine Point director. Apparently things went well administratively, but the students, teachers, and community were not included in many activities. The parents' excitement at being involved deteriorated, and that of the staff as well. The new director made no substantial changes but rather attempted to maintain an existing program, which he did, without creating discordance with the administration. Evidently the Park Rapids officials were pleased by this, and complimented him on being a fine administrator. The Indian community was paying for the consequences, but as long as backs were being patted and no political dissension was evident among administrators, there was no necessity for concern for the consumers, in this case Indian students and parents.

More recently another example of the political powerlessness of the local Indian community was made manifest. The Indian Advisory Board Unanimously passed a resolution creating a new position at the school. It was a part-time position which an Indian was to fill as a co-director of the program with special responsibilities spelled out. (It should be noted that another director had succeeded to that position, a non-Indian, selected over an Indian in the spring of 1972.)

The Director and the Superintendent of District 309 met and verified for the record that there would be no additional funds required for the position. The cost would be approximately $2,600. The Superintendent then met with the Indian community and was told of their wishes and desire to have an Indian, the person who founded the program, as project co-director. He said he would take this request back to his board for their consideration.

This resolution of the Indian Advisory Board was unanimously rejected by the district board. There were two district meetings at which the issue was discussed. At the first of these two meetings, according to the "Park Rapids Enterprise", the board first discussed another request--for school cooperation in an evangelism program sponsored by several local churches. In response to a question about the legal ramifications of the request, the Superintendent was quoted as saying, "There are some laws you can ignore if nobody makes a fuss." Keep this in mind as this discussion proceeds.

The district board then listened to representatives of the Indian Advisory Board, the Pine Point faculty, the community, and the director all speak in favor of the resolution. The issue was tabled. At that point the Indian representatives walked out of the meeting. A week later the issue was discussed further and the board voted to reject the proposal.

The comparison of the evangelism and Indian issues is instructive. In the first case, an issue of doubtful legality was favorably treated because the direction of the political breezes was sensed. In the second case, a modest and financially sound request was rejected, because the board and superintendent felt it was not a politically wise move.

At this point the reservation tribal council passed a resolution banning the district superintendent and the board members--prohibiting them from setting foot on Indian land, in which Pine Point is located. The tribal council also stated that any person from the district staff desiring to come to Pine Point would be allowed to do so only if the council provided him with a pass.

A final example of Park Rapids' attitudes involved a most recent action taken by the district school board to close down the Pine Point Experimental Community School by June 30, 1973. There are a number of facts and some interpretations of this move. First, the action was unilateral on the part of the district board. The Indian Advisory Board was not consulted or informed of it. The State Department of Education was not told of it; neither were the Bureau of Indian Affairs, the White Earth tribal council, nor the Pine Point School director.

Secondly, the district board took the action with no consideration of the fact that the State Board of Education had sanctioned a three-year operation, and the

program had not yet completed its third year. Additionally, there was no consideration of any evaluation of the school program. In fact, the action was taken the evening that a team of evaluators from the State Department of Education left for their office to begin writing a short evaluation which had been requested by the State Board of Education. The issues mentioned by the district board were per pupil costs and the inefficiency of the school building.

Third, school officials have been quoted as saying that the "real reason" behind the action is to bring the question of local autonomy to a head. The board resolution does mention the desire of the Pine Point community to run its own school affairs and with the most patronizing kind of noblesse oblige the district board announced its endorsement of the Pine Point community's wish.

But significantly, none of this was done in cooperation with Pine Point people. The issue was probably a matter of affront (Pine Point apparently embarrasses Park Rapids) and fear of the issue of school segregation. But these are just surmises.

The most recent development occurred April 3 and 4, 1973. The State Board of Education, Commissioner of Education, governor's representatives, and other politically responsible persons attended a hearing on the closing of the Pine Point School. The seven members of the State Board and the Commissioner of Education for the

for the state were visibly impressed by a four-hour meeting, at which they heard testimony from Indian parents, Indian teachers, and other supporters. The Commissioner and State Board members later admitted that they had previously been supporting the Park Rapids' intention of closing the Pine Point School.

After hearing the testimony given, the Commissioner called for immediate negotiations in order that the Pine Point Advisory Board could assume full fiscan and educational control. At this point negotiations have not been held, but a political and educational victory was won.

It is doubtful that this could have come about if the local residents and community leaders did not have political know-how.

An aspect of all this is that the political dimension of the experiences at Pine Point has become dominant. The very existence of a program, any program at all, was in some doubt. This doubt was not the result of any documented failure of the school to work toward or meet objectives. It is not even the result of any stated dissatisfaction with the program. It is a set of complicated political issues revolving around the question, "Who is going to have decision-making power?"

It is critical that Indian people living in Indian communities have that power. It is critical because of

two very different points from very different sources. First, the self-determination drive is quite real among tribal people. This is simply another way of saying that Indian people themselves want control and responsibility for education and other affairs. Second, the dominant society wants some kind of settlement of Indian issues and will become more demanding of this as time goes on. In other words, there will be more consideration of termination, although that will probably not be the term used. There will be more interest in Indian self-sufficiency, at least on reservations. This is and will be especially true of the current administration in Washington.

In these terms, education, and other forms of community development, amount to a kind of race between self-sufficiency and the necessary conditions for self-sufficiency. Well known are the disastrous results of termination without adequate preparation.

Thus, education and Indian politics are inter-related in two obvious ways: 1) control of education is an important current issue in the politics within Indian communities and between those communities and the dominant society, and 2) strengthening of schools is an important part of preparing for self-sufficiency.

THE TRIBE AS A POLITICAL ENTITY

Many Indian communities, including Pine Point, are faced with this issue of segregation. The issue lurks in the motives of the district boards; it sometimes surfaces in the questions of state board members or politicians. The key point is this: states assume Indians are a "race" and have defined them as minorities. Yet, very few states and/or Indian tribes have sought other solutions to the issue of integration of Indian students.

While I do not pretend to offer the following statements as the answer, I would consider it a start. As Indian educators, historians, politicians, or concerned Indians, it is incumbent upon us to provide leadership regarding segregation and integration.

More importantly we must recognize <u>tribes are political entities, not merely racial groups</u>. This will be the central point in my argument in this section.

The direction and development of the national Indian education policy is inextricably related to overall federal Indian policy. The civilization policy designed to bring about assimilation of Indians into white society has not succeeded, at least so far. Through the treaties and because Indians were not citizens, there developed a special relationship between Indians and the federal government, which, according to Chief Justice John Marshall, "resembles that of a ward to his guardian".[3] The treaties,

[3] <u>Cherokee Nation v. Georgia</u>, United States 1, 1831.

the judicially evolved theory of guardianship, and the constitutional directive of Article I, Section 8, to regulate commerce with Indian tribes, provided the sources of power for the Congress over the years to pass a series of laws for the special benefit of Indians and established the Bureau of Indian Affairs to carry out those programs.

During the Eisenhower administration, both the executive and legislative branches of government sought to "terminate" the special relationship between Indians and the federal government, and to promote the full integration of Indians into the mainstream of society.

Termination, as Indian tribes know it, is the most threatening word to Indian country. This fear is pervasive and cannot be ignored by anyone attempting to understand contemporary issues.

In education, forms of termination are being carried out by consolidating Indian schools with white public schools. The 1967 consolidation law for the state of Minnesota could be a serious legal question in that it forced several all-Indian schools to integrate. This is contradictory to stoppage of the all-out drive for termination. This ended (unofficially, for termination still remains as a law) on September 18, 1958, when Secretary of the Interior Fred Seaton announced that no tribe would be terminated without its consent.

Yet, if one interprets the consolidation law of 1967, he may see a distinct form of termination.

A more recent concern which tribal, state, and federal governments must consider, is the issue of Indian schools and the constitution, in particular as it relates to the 1954 Supreme Court Brown v. Board of Education decision. The unique status of Indians, treaties, creation of reservations, the notion of a generalized wardship or trust responsibility, must all be kept in mind as well, as they are all interrelated and there seems to be no distinct definitions or answers to them.

In the Brown decision, the Supreme Court, construing the equal protection clause of the Fourteenth Amendment, declared that "separate educational facilities are inherently unequal," and deprive Negro children of equal educational opportunities.

It does not follow, however, that general equal protection and due process standards apply across the board to Indians without modification. Several hundred years of history and substantial body of law (5,000 statutes, 2,000 regulations, 389 treaties, 2,000 federal court decisions, and 500 opinions of the Attorney General) have defined the unique status of Indians and Indian tribes in this society. The Constitution, the judicially evolved theory of guardianship, and the inherent power of the federal government derived from its ownership of the lands

which Indian tribes occupy are the principle sources of law which differentiate Indians from all other groups.

The Constitution empowers the Congress "to regulate commerce with Indian Tribes", and it grants to the President, with the advice and consent of the Senate, the power "to make treaties". And while the Commerce and Treaty clauses have been the most important constitutional sources of federal power over Indians, the war power, the power to control property of the United States, and to admit new states, have also been significant.

The enactment of the Trade Act in 1790 enabled Congress to use its constitutional powers to pass laws which affect Indian tribes and tribal members. Congress has regulated the right of Indian tribes to enter contracts, authorized Indian tribes to supervise the employment of federal employees assigned to them, and prescribed procedures for the formal organization of Indian tribal government. These statutes refer to particular groups defined in political or geographical terms.

In the case of Worcester v. Georgia, Chief Justice Marshall, in holding that the State of Georgia could not regulate the internal affairs of the Cherokee Nation, gave the following description of the status of Indians:

> "The Indian nations had always been considered as distinct, independent political communities. The very term 'nation' so generally applied to them, means 'a people distinct from others'. The Constitution, by declaring treaties already made, as well as those to be made, to be the supreme law of the land, admits their rank among those powers who are capable of making treaties.

> "The Cherokee Nation, then, is a distinct community occupying its own territory, with boundaries accurately described, in which the laws of Georgia can have no force...." [4]

In 1958, the Supreme Court in Williams v. Lee held that Arizona state courts had no jurisdiction over a dispute between an Anglo and an Indian arising on the Navajo reservation, because the exercise of state jurisdiction would impinge on "the right of reservation Indians to make their own laws and be ruled by them".[5] The Court relied heavily on Worcester v. Georgia, and observed that despite some modification over the years, "the basic policy of Worcester has remained".

The decisions in Worcester and Williams reflect congressional policy in the exercise of its Commerce Power to recognize and promote Indian tribal autonomy. The Wheeler-Howard Act of 1934, vested tribal government with the power "to prevent the sale, disposition, lease, or encumbrance of tribal lands, interests in lands, or other tribal assets without the consent of the tribe".

More recently, the principle of Indian tribal autonomy received explicit Congressional endorsement in the Civil Rights Act of 1964 and 1968. The Indian provisions of the Civil Rights Act of 1968 make tribal consent a conditional precedent to the assumption of state criminal or civil jurisdiction. The Act, moreover, gives express

[4] Worcester v. Georgia, 195 31 United States 15, 1832.

[5] Williams v. Lee, 358 United States 217, 1958.

recognition to tribal ordinances and customs.

The treaty power in Article II provides a second Constitutional basis for the federal government's dealing with Indian tribes. That the government dealt with Indian tribes by treaties underscores the fact that Indian tribes had historically, and still today largely maintain, a separate existence apart from society. Most treaties continued this separation by setting aside designated territory to be inhabited and controlled by particular Indian tribes. This separatism is supported today by a host of federal programs designed to improve the quality of life in Indian reservation communities.

In the exercise of its constitutional and other powers over Indians, Congress has enacted a comprehensive body of statutes which affects almost every aspect of a reservation Indian's life, including education, health, civil liberties, welfare, transfers of land, validity of contracts, testamentary dispositions, and expenditures of tribal funds.

The constitutional propriety of schools for Indians presents an entirely different issue from those decided on the principle that school segregation is unequal, because Indian schools are a direct result of the government's policy of treating Indian tribes as <u>distinct, independent political communities</u>. Through the exercise of the constitutional power to make treaties, wage war,

and regulate commerce with Indian tribes, the federal government has set aside geographically and politically separate areas to be occupied by Indians. Federal policy has been primarily directed to ward support and protection of the integrity of tribal self-government on reservations.

In the 1962 Tennessee reapportionment case[6], the Court reviewed the "political question" doctrine and classified cases involving the status of Indian tribes as ones which the courts treat as "political". The Court stated:

> "Prominent on the surface of any case held to involve a political question is found a textually demonstrable constitutional commitment of the issue to a coordinate political department." 7

The constitutional commitment to the Congress of the power to regulate commerce with Indian tribes is textually demonstrable.[8] That the establishment and operation of schools is a "regulation of commerce" within the meaning of the Constitution seems clear if the schools are viewed as designed to train persons to take part in interstate commerce; if the schools are viewed as founded pursuant to treaties which regulate commerce; or if the establishment of schools themselves is found to stimulate and affect commerc.[9]

Clearly, Indian schools result from the geographic and political separation of Indian nations and are not designed to promote racial segregation.

[6] Baker v. Carr, 369 U. S. 186, 1962

[7] 369 U. S. at 217

[8] Constitution, Article I, Section 8, cl. 3

[9] Compare, Katzenbach v. McClung, 379 U. S., 1964; Heart of Atlanta Motel v. U. S., 379 U. S. 241, 1964.

Indian schools are not segregated de jure, except to the extent that the creation of Indian reservations and continued recognition of tribal society constitutes segregation. No one could seriously argue that the Constitution requires the destruction of tribal society.

The states are confronted by the historical fact that the federal government has created or recognized Indian reservations, where many members of a single political and racial group can and do reside. The constitutions of most states contain specific disclaimers to jurisdiction and control over lands lying within the boundaries of the reservations. The creation and maintenance of Indian reservations may not fairly be denominated "state action" within the meaning of the Fourteenth Amendment. There were federal policy considerations which led to the creation of Indian reservations, and federal policy today calls for their continuance.

President Nixon, in his message to Congress on Indian policy, spoke directly to the low quality of Indian education which he called "one of the saddest aspects of Indian life". The President declared:

> "By channelling funds to Indian tribes and communities would give Indians the ability to help shape the schools which their children attend and in some instances, to set up new school systems of their own."

In 1972, then, the federal government, on the basis of experience, rejects the policy of forced termination,

reaffirms its "special relationship" to Indian tribes, and encourages reservation Indians to take greater control of the schools their children attend, including the establishment of new public school systems.

Recent Supreme Court decisions (Wright v. City of Emporia, and United States v. Scotland Neck City Board of Education) indicate the courts would allow great leeway in the creation of new school districts for recognized political entities. And since states expressly recognize the existence of Indian reservations as distinct political entities, the reservations could meet the court's prerequisites.

Under the due process clause of the Fifth Amendment, Indian schools can meet a constitutional challenge on the grounds of (1) plenary power of Congress over Indian affairs, (2) specific treaty agreements, (3) guardianship, and (4) regulation of commerce.

The federal government can establish and maintain segregated schools for Indians and it can support Indian community-controlled schools consistent with contemporary constitutional standards. A state may deliberately create a racially-imbalanced school district at the request of Indians in order to achieve valid educational objectives. Clearly, the movement for Indian control of Indian education can live comfortably with the United States Constitution.

RECOGNITION OF POLITICS IN ALTERNATIVE SCHOOLS

In a demonstration school there are at least two things to be demonstrated:

1) Reforming the educational practices, that is, doing things differently for educational reasons,

2) Reforming the power system so that innovative school programs have a chance to operate, that is, political survival.

The first, educational reform, where most of the experience and interest of school people live. People who think at all about education tend to think first of what they want schools to be. Often, they go ahead as if the problem were a matter of getting together a set of promising ideas about schools. Such thinking ignores the problem of having the resources--financial, organizational politics--to start and develop a program of educational ideas.

School people, especially those with ideals about education are often politically naive. This is not meant as a put-down--it is meant as a statement of fact. The ordinary experience of persons with well-formulated ideas about education does not include experience in getting, holding, and building political power.

Persons in the position of school political power--school superintendents and school board members, for instance--are often educationally naive. They tend to

budgets. They are merely advisory boards. In many cases they are appointed by the district superintendent or board, not elected by Indian people.

A board cannot have any real power to affect a program if it does not have fiscal authority. A board cannot represent a community if the community does not participate in the selection of the board. Getting these things to happen is political action.

In summary, I believe that school political issues comparable to these occur in other Indian communities. To that extent I'm willing to offer the following generalizations about what organizers of demonstration programs should be prepared to face and to do.

1) Recognize that demonstration programs demonstrate both educational reforms and reform of the power system which is necessary to start and build a program.

2) Recognize that many people with ideas about education are politically naive and sometimes downright hostile to political action. The ordinary training and much of the early experience of educators does nothing to help with the political issues--at least their training and experience is no better suited to it than that of others.

3) Recognize that many politicians are not suited to thinking very deeply about educational issues. Most politicians are necessarily concerned with getting and

holding power to do things. But they need good resources to assist them in deciding what to do with their power.

The worst kind of situation which can develop is when the school people think that the politicians are hopelessly corrupt and the politicians think the school people are hopelessly idealistic. This is just another form of the divide and conquer technique which works against Indian communities so often.

4) Leadership is needed in both education and political action. Getting the leadership together for both realms may mean having one person or group emerge to lead on both fronts. Or it may mean coordinating the special talents of more than one person or organization. In the second case, someone or some group will have to take the responsibility for getting things coordinated anyway.

Having just one person who is both educationally and politically aware is unusual, I think. The interests are in some ways incompatible. But sometimes such people can be found or do emerge. If they do, great news for the project.

5) Regardless of the leadership source there is going to have to be a wide range of talent to make a demonstration program work well. Roughly, there needs to be both educational and political talent. And within both of those areas there will have to be another wide

range of skill and interest: from idea-producers through public relations specialists to clerical experts.

6) Communication is a requirement in any kind of institution but particularly critical for new programs. At least four lines of communication will have to be in good shape: the political action and school people will need good communication within their own staffs, these two groups will need communication with each other, both will need good communication with the community, and both will need good lines to agencies and persons outside the community.

7) Cooperative attitudes will have to be encouraged and maintained. Educational thinking without political action can degenerate into a romantic ego trip; political action without goals (such as education reform) can degenerate into a power ego trip.